

EXHIBIT L

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,
Debtor.

Adv.Pro.No.
08-01789 (BRL)

-----x

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

Adv.Pro.No.
09-1182 (BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

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Videotaped Deposition of TINA HYUNG SURH,
as taken by and before NANCY C. BENDISH, Certified
Court Reporter, RMR, CRR, RSA and Notary Public of
the States of New York and New Jersey, at the
offices of Scott & Scott, 405 Lexington Avenue, New
York, New York on Wednesday, September 18, 2013,
commencing at 10:10 a.m.

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1 Q. Did anyone at your organization, to
2 your knowledge?
3 A. Not to my knowledge.
4 Q. Mr. Jacobs also asked you about the
5 October 23rd, 2008 meeting with Mr. Merkin. Again,
6 I don't want to go over all of that again in detail,
7 but I just want to ask a couple of clarifying
8 questions.
9 A. Um-hum.
10 Q. When Mr. Merkin brought up Madoff, he
11 was talking about an investment with Ascot, which
12 was another partnership he ran, correct?
13 MR. JACOBS: Object to form.
14 Misstates the record.
15 A. I think you are misstating what I
16 said.
17 Q. Well, can you explain --
18 A. What my notes say and what I said is
19 that Ezra Merkin brought up the concept of the
20 family trust that he had invested called Ascot
21 Partners with Bernie Madoff, or that it was invested
22 with Bernie Madoff.
23 As to whether we should invest as NYU
24 through Ascot or directly with Bernie Madoff, that
25 distinction was never made.

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1 Q. Okay. Did Mr. Merkin make it clear
2 that Ascot was entirely or almost completely
3 invested with Madoff?
4 MR. JACOBS: Object to form.
5 A. That was my conclusion based on his
6 presentation of it.
7 Q. Last topic.
8 Mr. Jacobs also asked you about
9 the -- during the October 23rd, 2008 meeting, and
10 your reaction to the fact that Mr. Madoff
11 self-cleared or marked his own trades. And you
12 testified, correct me if I'm wrong, that you
13 couldn't remember but that it was possible that
14 Mr. Merkin may have expressed an agreement with
15 that?
16 MR. JACOBS: Object to form.
17 MR. LAUGHLIN: I think it does
18 misstate the record, but do you --
19 A. What I -- what I believe I said, and
20 I think the record will show what I said --
21 Q. Of course.
22 A. -- was that Mr. Merkin did not
23 disclose to us the -- the exposure that we already
24 had as NYU, as an investor in the Ariel Fund, to the
25 Madoff investment strategy. I did say that it was

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1 possible at that moment, as he was changing the
2 subject, that in addition to nodding, you know, kind
3 of in acknowledgement of our statement, that he may
4 also have said, I can see that, or I see your point,
5 or something fairly benign, but as a transitional,
6 you know, communication, to move along to the next
7 topic.
8 Q. Okay.
9 A. Which is then what he did.
10 Q. And Mr. Maertens testified in the NYU
11 action against Mr. Merkin and others about four
12 years ago and he testified that Mr. Merkin didn't
13 say anything in response to the issues that you
14 raised. Would you have any basis to disagree with
15 his testimony?
16 A. No. Because that's not inconsistent
17 with what I just described.
18 Q. Okay. Understood.
19 You also testified about whether
20 delegation to Mr. Madoff was consistent with
21 Mr. Merkin's duties to Ariel. I think we just spoke
22 about that.
23 A. Um-hum.
24 MR. JACOBS: Object to form.
25 Q. I'd like to show you Ariel's

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1 prospectus. This was an exhibit to NYU's verified
2 complaint.
3 A. Um-hum.
4 Q. It's Exhibit 112 in front of you.
5 And I believe --
6 A. Which page?
7 Q. It's page 13 of the --
8 MR. STEINER: Well, first the
9 prospectus starts about 20 pages in.
10 Q. You found it.
11 Did you review this prior to
12 December 11th, 2008?
13 A. I do not recall reviewing this
14 prospectus prior to -- prior to that time.
15 Q. Right.
16 Can you please read the first
17 sentence under "Independent Money Managers"?
18 A. "The investment adviser may delegate
19 investment discretion for all or a portion of the
20 assets of the fund to money managers other than the
21 investment adviser or make investments with other
22 investment entities."
23 Q. So I -- correct me if I'm wrong, but
24 you did not -- you don't remember if you reviewed
25 this prior to December 11th, 2008?